

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

IN RE:

**M.T.G., INC., d/b/a MATRIX
TECHNOLOGIES GROUP,

Debtor.**

**Case No. 95-48268
Chapter 7
Hon. Thomas J. Tucker**

**GUY C. VINING, as the Trustee for
the Chapter 7 Estate of M.T.G., Inc.,
and in the name of the UNITED
STATES OF AMERICA,**

Plaintiff,

Adv. No. 03-4950

v.

COMERICA BANK, et al.;

Defendants.

**ORDER GRANTING PLAINTIFF LEAVE TO FILE LATE REPLY BRIEFS,
AUTHORIZING FILING OF PLEADINGS IN EXCESS
OF PAGE LIMITATIONS IMPOSED BY LOCAL RULE, AND ADJOURNING
HEARING ON MOTIONS TO COMPEL (DOCKET # 322, 324)**

This case is before the Court on two motions to compel discovery, each filed by the Plaintiff Trustee, Guy C. Vining (Docket ## 322, 324). The motions currently are scheduled for hearing on Wednesday, July 29, 2009 at 1:00 p.m., less than two days hence. On this day, Monday, July 27, 2009, at 2:57 p.m., Plaintiff filed a reply brief in support of his motion to compel against the Comerica Bank Defendants (Docket ## 324, 343). The reply brief is 15 pages long, and there are some 95 pages of exhibits attached to the reply brief.

This reply brief is out of rule for at least two reasons: first, it exceeds the 5-page limit for reply briefs under L.B.R. 9014-1(e); and second, it is untimely. Such a reply brief must be filed

and served “not less than 3 business days before the hearing on the motion.” *Id.*

Plaintiff Trustee has filed an ex parte motion for leave to exceed the page limit for this reply brief. (Docket # 342). He has not filed a motion for an extension of the deadline to file the reply brief. Given its schedule this week, the Court will not have sufficient time to review this reply brief and its exhibits before the July 29 hearing. And perhaps more importantly, the late filing of this reply brief may not give opposing counsel adequate time to review the reply and its exhibits and prepare to meet them at the hearing.

Under the circumstances, the Court has authority and discretion to strike the reply brief and its exhibits. But rather than do that, the Court will, in its discretion, order the following relief to solve the problem(s) caused by Plaintiff’s violation of local rule.

IT IS ORDERED that:

1. The Plaintiff Trustee is granted an extension of time, retroactively, and leave, to file the reply brief he has filed today (Docket # 343), and also is granted leave to exceed the page limitations imposed by L.B.R. 9014-1(e) with respect to that reply brief.
2. The Plaintiff Trustee also may file a reply brief in support of his motion to compel discovery against Defendant Plunkett Cooney (Docket # 322), *no later than July 28, 2009*. That reply brief also may exceed the 5-page limit, up to a total length of no more than 10 pages.
3. The hearing on the motions to compel (Docket ## 322, 324), currently scheduled for July 29, 2009, is adjourned to **Wednesday, August 5, 2009 at 1:00 p.m.**

Signed on July 27, 2009

/s/ Thomas J. Tucker
Thomas J. Tucker

United States Bankruptcy Judge